

444 North Capitol Street, NW.,  
Washington, DC. 20001.

\* \* \* \* \*

6. In § 645.209, paragraph (a) is amended by adding a new sentence between the existing third and fourth sentences to read as set forth below, and paragraph (b) is amended by removing the words "clear recovery" in the second sentence and "clear recovery area" in the third sentence and adding in their place the words "clear zone".

#### § 645.209 General requirements.

(a) *Safety.* \* \* \* The lack of sufficient right-of-way width to accommodate utilities outside the desirable clear zone, in and of itself, is not a valid reason to preclude utilities from occupying the highway right-of-way. \* \* \*

#### § 645.215 [Amended]

7. In § 645.215, paragraph (a), the fifth sentence, is amended by removing the words "of the Federal-aid highway system" and adding in their place the words "of Federal-aid highways".

[FR Doc. 95-16403 Filed 7-3-95; 8:45 am]

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## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1960

#### Basic Program Elements for Federal Employee Occupational Safety and Health Programs

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is amending 29 CFR part 1960 to permit implementation of its multi-employer worksite policy in the federal sector and to incorporate into the federal program the medical access provisions for the private sector set forth at 29 CFR 1910.20.

**EFFECTIVE DATE:** July 5, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mr. John E. Plummer, Director, Office of Federal Agency Programs, Room N3112, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (202-219-9329).

#### SUPPLEMENTARY INFORMATION:

##### (A) Multi-employer Policy

Private sector employers in conventional, one-employer workplaces are accountable under the Occupational Safety and Health Act for providing safe

working conditions for their employees. In private sector worksites where the working environment is controlled by more than one employer, such as in construction or other activities involving subcontractors, OSHA's long-standing policy has been to hold multiple employers responsible for the correction of workplace hazards in appropriate cases. Thus, when safety or health hazards occur on multi-employer worksites in the private sector, OSHA will issue citations not only to the employer whose employees were exposed to the violation, but to other employers such as general contractors or host employers, who can reasonably be expected to have identified or corrected the hazard by virtue of their supervisory role over the worksite.

OSHA's current citation practice for multi-employer operations is described in the OSHA Field Inspection Reference Manual (FIRM), OSHA Instruction CPL 2.103 at III-28,29 (1994). OSHA's multi-employer policy, which has been upheld numerous times by the Occupational Safety and Health Review Commission and the federal courts, does not confer special or extraordinary burdens on superintending employers, but merely recognizes that employers with overall administrative responsibility for an ongoing project are responsible under the Occupational Safety and Health Act for taking reasonable steps to correct, or to require the correction of, hazards of which they could reasonably be expected to be aware. Moreover, a variety of OSHA safety and health standards specifically require certain categories of employer to take reasonable steps to assure the safety of all employees other than their own. Host employers in refineries and other operations where chemical process hazards are present are required, for example, to inform contract employers of hazards and take other administrative steps to assure safe contractor practices, see 29 CFR 1910.119(h). Similarly, employers engaged in hazardous waste operations are required, among other things, to implement programs to assure that contractor and subcontractor employees are informed of the nature, level, and degree of exposure likely on the site, see 29 CFR 1910.120(i).

In its role as the lead agency for implementing and reviewing compliance with Executive Order 12291, "Federal Agency Safety Programs and Responsibilities", and 29 CFR part 1960, *Basic Elements for Federal Employee Occupational Safety and Health Programs*, OSHA requires federal agencies to comply with all occupational safety and health standards, and, generally, to assume

responsibility for worker protection in a manner comparable to private employers, including multi-employer worksite responsibility in appropriate circumstances. However, most multi-employer workplaces in the federal sector involve a mixed workforce of civil service and private contractor employees. Under the current wording of 29 CFR part 1960, the safety responsibilities of a federal agency run only to federal workers, and employees of federal contractors are specifically excluded, see 29 CFR 1960.1(f). OSHA had no intention when it issued this regulation to inadvertently limit the compliance responsibilities of federal agencies in multi-employer worksites; instead, the language in 1960.1(f) was intended only to assure that contractors on federally-owned or administered jobsites remain subject to the full range of OSHA enforcement remedies available in the private sector.

For this reason, the provisions of 29 CFR 1960.1(f) are being clarified by deleting the language which suggests that federal agencies are accountable for the safety of federal employees exclusively, while retaining a provision which makes clear that private contractor remain subject to private sector enforcement remedies. This change is intended to ensure that the health and safety responsibilities of federal agencies on multi-employer worksites are comparable to those of private employers in comparable circumstances.

##### (B) Medical Records Access

Section 19 of the OSH Act, Executive Order 12196, and 29 CFR part 1960 require agency heads to implement occupational safety and health programs consistent with standards promulgated under section 6 of the OSH Act. Because 29 CFR 1910.20, which regulates employee access to exposure and medical records, was promulgated pursuant to section 8 of the OSH Act, under existing regulations it would not be a required element of an agency program. Therefore, OSHA is amending 29 CFR 1960.66 by adding a new paragraph (f) to make 29 CFR 1910.20 a required element of federal agency safety and health programs.

##### Administrative Procedure

The clarification of federal agency safety responsibilities on multi-employer jobsites has no regulatory effect on private parties, and applies only to federal agencies. It is, accordingly, a "rule of agency procedure or practice" within the meaning of the Administrative Procedure Act, 5 U.S.C. 553(b)(3). Similarly, the requirement

that federal agency safety programs include procedures for prompt reporting of certain types of occupational accidents and fatalities applies only to federal agencies and can fairly be described as a rule of agency practice or procedure. Accordingly, notice and public comment are not required, and today's revisions to 29 CFR part 1960 are issued as a final rule. In addition, today's procedural changes for federal agencies do not meet the definitions of a "major rule" under Executive Order 12291 and no regulatory impact analysis is required. Finally, for the reasons stated above, pursuant to 5 U.S.C. 553(d) OSHA finds good cause for making the present modifications to 29 CFR part 1960 effective immediately upon publication.

**Authority:** This document was prepared under the direction of Mr. Joseph A. Dear, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, pursuant to sections 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673), 5 U.S.C. 553, Secretary of Labor's Order No. 1-90 (55 FR 9033) and Executive Order 12196, 29 CFR part 1960 is revised to include medical reporting requirements and multi-employer worksite responsibilities comparable to those applicable to private sector employers.

#### List of Subjects in 29 CFR Part 1960

Government employees, Occupational safety and health, Reporting and recordkeeping requirements.

Signed at Washington, DC this 28th day of June, 1995.

**Joseph A. Dear,**

*Assistant Secretary of Labor.*

For the reasons set forth in the preamble, part 1960 of chapter XVII of title 29 of the Code of Federal Regulations is amended to read as follows:

#### PART 1960—BASIC PROGRAM ELEMENTS FOR FEDERAL EMPLOYEE OCCUPATIONAL SAFETY AND HEALTH PROGRAMS

1. The authority citation for part 1960 continues to read as follows:

**Authority:** Sections 19 and 24 of the Occupational Safety and Health Act of 1970 (84 Stat. 1609, 1614; 29 U.S.C. 668, 673), 5 U.S.C. 553, Secretary of Labor's Order No. 1-90 (55 FR 9033), and Executive Order 12196.

2. Section 1960.1 is amended by revising paragraph (f) to read as follows:

##### § 1960.1 Purpose and scope.

\* \* \* \* \*

(f) No provision of the Executive Order or this part shall be construed in any manner to relieve any private employer, including Federal contractors, or their employees of any rights or responsibilities under the provisions of the Act, including compliance activities conducted by the Department of Labor or other appropriate authority.

\* \* \* \* \*

3. Section 1960.66 is amended by adding a new paragraph (f) to read as follows:

##### § 1960.66 Purpose, scope and general provisions.

\* \* \* \* \*

(f) Retention and access of employee record shall be in accordance with 29 CFR 1910.20.

\* \* \* \* \*

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BILLING CODE 4510-26-M

#### LIBRARY OF CONGRESS

##### 36 CFR Part 701

[Docket No. LOC 95-1]

##### Reading Rooms and Service to the Collections

**AGENCY:** Library of Congress.

**ACTION:** Final rules.

**SUMMARY:** The Library of Congress issues these final rules to amend its regulations on access to the Library's collections by members of the public and policies and procedures for service to the collections. This amendment reflects the new capabilities of the Library's reader registration system, specifically requiring all members of the public wishing to use the Library's collections to obtain a Library-issued User Card. The User card will contain the name, current address, and a digitized photograph of the user. This amendment also describes new policies and procedures for providing and maintaining security for Library materials from accidental or deliberate damage or loss caused by users of these collections and the penalties for misuse. These measures include establishing conditions and procedures for the use of material that requires special handling, instructing and monitoring readers, assuring that the conditions and housing of all materials are adequate to minimize risk, and establishing control points at entrances to reading rooms. These new procedures will enhance the security of the Library's collections. The Library will begin issuing user cards on

or about September 1, 1995, and will begin requiring them before providing reading room service 90 days later.

**EFFECTIVE DATE:** July 5, 1995.

**FOR FURTHER INFORMATION CONTACT:** Johnnie M. Barksdale, Regulations Officer, Office of the General Counsel, Library of Congress, Washington, DC 20540-1050. Telephone No. (202) 707-1593.

**SUPPLEMENTARY INFORMATION:** Under the authority of 2 U.S.C. 136, the Librarian of Congress is authorized to make rules and regulations for the government of the Library and for the protection of its property. In March of 1992, James H. Billington, the Librarian of Congress, announced that new security measures had to be taken to protect the Library's collections due to an increase in thefts and mutilation of materials. "The Library of Congress has long prided itself on being open to all readers," Dr. Billington said. "However, as the nation's Library and the world's largest repository of mankind's intellectual accomplishments, we have an obligation to protect our collections for future generations of Americans. Many of our books, maps, prints, and manuscripts are irreplaceable. We cannot risk their loss or desecration. We are responsible for the nation's patrimony." Dr. Billington's announcement followed lengthy planning by the Library to tighten security. It also followed the third arrest for theft from the Library since April 1991. 36 CFR 701.5 is amended to announce the Library's new capability to capture and store the name, address, and a digitized photograph of registered users of its collections in an automated file for collections security purposes. The existing text in 36 CFR 701.5 will become paragraph (b) and a new paragraph (a) is added. 36 CFR 701.6 is amended to set forth the general policy of the Library on the use of materials in its custody. 18 U.S.C. 641, 1361, and 2071; and 22 D.C. Code 3106 set forth criminal provisions for mutilation or theft of Government property. The existing text in 36 CFR 701.6, Chapter VII will become paragraph (a) and new paragraphs (b), (c), and (d) are added. The last sentence in paragraph (a) will be removed.

##### Comments

The Library of Congress received one comment on the proposed regulation; that comment submitted in the form of a post card by Matthew J. McGuire, Cheshire, Connecticut. Mr. McGuire stated that he strongly protests the proposed rule on the use of Library-